UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:11-cv-217-RJC

| JON'TA TOMORREEA HAMPTON, |) |
|---|----------------|
| Plaintiff, |) |
| v. |) <u>ORDER</u> |
| MARION CORRECTIONAL INSTITUTION; ROBERT C. LEWIS; |) |
| ALVIN W. KELLER, JR., |) |
| Defendants. |) |
| | _) |

THIS MATTER comes before the Court on initial review of Plaintiff's pro se Complaint filed on August 19, 2011, pursuant to 42 U.S.C. § 1983 (Doc. No. 1).

The Prisoner Litigation Reform Act (PLRA) makes clear that "[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). This subsection is known as the "three strikes" provision of the PLRA.

Court records indicate that Plaintiff has filed at least three lawsuits in the Middle District of North Carolina¹ and the Eastern District of North Carolina² that were dismissed as

¹ See <u>Hampton-Bey v. Cabarrus</u>, 1:08cv659 (dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous or malicious or for failing to state a claim upon which relief may be granted); <u>Hampton-Bey v. Parsons et al.</u>, 1:09cv296 (dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous or malicious or failing to state a claim upon

frivolous, malicious, or because the Complaint failed to state a claim upon which relief may be granted. Further, Plaintiff has not demonstrated that he is under imminent danger of serious physical injury; therefore, his Complaint must be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff's Complaint is dismissed pursuant to 29 U.S.C. § 1915(g);
- (2) The Clerk is directed to send a copy of this Order to the pro se Plaintiff.

Signed: September 8, 2011

Bobert J. Conrad, Jr.

Chief United States District Judge

which relief may be granted).

² See <u>Hampton-Bey v. Combined Records</u>, 5:09ct3134 (dismissed as frivolous).